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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,694	11/10/2000	Kenneth A. Sumrall	067681.0103	4625

7590 05/30/2003  
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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT PAPER NUMBER

3713

DATE MAILED: 05/30/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

# Office Action Summary

Application No.

09/709,694

Applicant(s)

SUMRALL ET AL

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 and 47-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

In response to the amendment filed 03/20/2003, claims 1-79 are pending; claims 1-22 and 47-79 remaining withdrawn from consideration.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 23-41 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 6064856) in view of Linton (6496681 B1). Regarding claim 23, the method steps of associating the learning activity with at least one student; receiving a release instruction for the learning activity; and providing access to the learning activity for the student associated with the learning activity, is corresponds to Lee et al's description of assigning lesson segments, see col. 5: 27-37. The learning activity including an assessment procedure, claim 23, is referred to as a "quiz subroutine" by Lee et al and is described in col. 7: 10-18, the section further teaches the ability to receive responses to the questions asked, and grading of the quiz based upon the responses. Regarding claim 26, the questions of the quiz are associated with a "particular lesson segment" and further described as having the ability to

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test the student's comprehension of the learning material. Having a student comprehend the learning material presented to them is an inherent objective of the teaching process. The mastery level, as in claim 27, is described by Lee et al as a "threshold" value and is taught at col. 7: 32-35 and col. 10: 1-5. The learning activities include procedures; these procedures may include either assessment procedures of content procedures, as in claims 29 and 30, see col. 4: 22-39. Regarding claims 25 and 28, Lee et al teaches the use of color-coding in col. 10: 26-32.

Lee et al fails to specifically teach: that the assessment procedure contains both an objective and a subjective procedure, and that the subjective responses are forwarded to a teacher to grade (as in claims 23, 31, 39, and 43) and that the score is provided to at least one of the teacher of the student, a parent of the student, and the student (as in claims 24, 32). Concerning the latter, Lee et al does teach that the score is recorded in the student profile, which a teacher is capable of reviewing.

Linton teaches a learning system and method which includes each of the above limitations. Linton teaches the use of objective questions in through the use of multiple-choice questions, and the use of a subjective procedure through the use of essay or short-answer type questions, see col. 7: 28-32. The answer to the questions being forwarded for review is taught at col. 9: 48-50. The ability for the user to see the result of their quiz is taught at col. 9: 55+.

It would have been obvious to one of ordinary skill in the art to incorporate the question and grading process of Linton into the Lee et al method so as to provide a more diverse testing and review procedure.

Claims 31-38 are a system corresponding in scope to claims 23-30, respectively, and are rejected for the same reasons. The elements of claims 39-41 and 43-45 have been addressed above, and are rejected for the same reasons.

2. Claims 42 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 6064856) in view Linton (US 6496681 B1) further in view of Oh (US 6190178 B1). The combination of Lee et al and Linton teaches all aspects of the claimed invention as shown above except for "accessing

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the learning activity through a device comprising no system-specific software or hardware, the device operable to display Hypertext Markup language (HTML)".

Oh clearly shows this limitation. In fact the Oh patent is designed to specifically provide this type of system. Although Oh does not specifically mention HTML it is old and well known that web pages are commonly written in HTML. It would have been obvious to one of ordinary skill in the art to implement either the Lee et al or Linton system on the Oh system so as to increase the ability for a user to conveniently use the system.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 23-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Linton (US 6282404 B1) earlier patent of the above mentioned

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

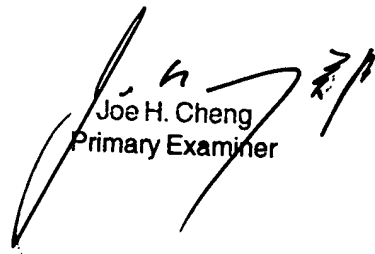
6. This application contains claims 1-22 and 47-79 drawn to an invention nonelected without traverse in Paper No. 4. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathleen M. Christman  
May 15, 2003

  
Joe H. Cheng  
Primary Examiner